

(45)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

OA No. 774/95

Date of decision: 11.2.1997

BETWEEN:

B. Nageswar

.. Applicant.

AND

The Senior Superintendent  
of Post Offices,  
Nizamabad Division,  
Nizamabad.

.. Respondent

Counsel for the Applicant: Mr. S. Rama Krishna Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI: VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD: MEMBER (ADMN.)

( JUDGEMENT )

(PER HON'BLE MR. JUSTICE M.G. CHAUDHARI: VICE CHAIRMAN)

Heard Mr. S. Ramakrishna Rao for the applicant.

The applicant challenges the order of his removal from service Dt.8.6.1994 issued by the respondent. The applicant was selected for appointment as BPM, Ranjoli B.O. on 19.1.1992. He submitted the required attestation forms in duplicate on 17.9.1992. In those forms in reply to Question No.12(i) he answered in the negative. However on it being disclosed that criminal case No.27 of 92 was pending <sup>against the</sup> on applicant in the District Mungif Court, Bodhan and therefore the answer given by the applicant in the attestation form <sup>was</sup> ~~is~~ false, the applicant was called upon to explain the same, on 8.11.1993. The applicant filed his representation Dt.18.11.1993 alleging <sup>that</sup> the criminal case was foisted <sup>upon</sup> ~~against~~ him by some person, out of revenge. But it was false. That was not ~~material as~~ <sup>was not</sup> the fact of the pendency of the case ~~so~~ revealed. The respondents issued <sup>notice</sup> order of termination for the <sup>said</sup> misconduct. The ~~order~~ was issued on 2.12.93 and took effect from 1.2.1994. By order Dt.12.4.1994 <sup>in</sup> In earlier OA 19/94 the respondent was directed to decide the representation of the applicant <sup>dated 24.1.94</sup> filed against the removal order. The representation was <sup>rejected</sup> ~~reflected~~ on 8.6.1994. That order is <sup>the</sup> ~~also~~ subject matter of challenge in this OA.

Contention of the applicant is that he had not <sup>p</sup> ~~suppressed~~ <sup>any</sup> the information in the attestation form and that what he had stated was bonafide in as much as he had <sup>been</sup> under the impression that no criminal case was pending against him and he <sup>had</sup> ~~does not~~ wilfully given wrong information. He also raises <sup>the</sup> ~~contention to~~ ~~over~~ that he was falsely implicated in the false case by some

persons who did not like his journalistic activities. The learned counsel for the applicant now states that the applicant is also acquitted from that case.

The merits of the criminal case are not germane to the instant case. Once the fact has been found to be established that there was a criminal case pending against the applicant on the date when the attestation form was filled up and he had not disclosed the fact <sup>of</sup> the pendency of criminal case the misconduct for the purpose of the rules i.e. P&T Extra DA (Conduct & Service) Rules <sup>stood established</sup> ~~stand~~ satisfied. It cannot, therefore, be held that the respondents had acted illegally in passing the impugned order.

Earlier reliance was placed by the learned counsel for the applicant on the decision of <sup>the</sup> Tribunal at Principal Bench in the case of Shishupal Vs Union of India (1993) 25 ATC 311 wherein the Bench had opined that concealment of certain facts in the attestation <sup>forms</sup> does not amount to misconduct. Instant OA was therefore referred to <sup>the</sup> larger Bench. The full Bench <sup>held</sup> ~~held~~ at Hyderabad on 20.11.1996 have now <sup>laid down</sup> ~~said~~ that the decision in the Shasi <sup>hugal</sup> ~~pal~~ case does not <sup>lay down</sup> ~~laid~~ the correct law and it is over-ruled. The <sup>benefit</sup> ~~benefit~~ of the decision in Shasi Pal's case, therefore, is no longer <sup>available</sup> ~~applicable~~ to the applicant. For the aforesaid reasons, although it is unfortunate case where the applicant <sup>seems to have</sup> ~~had to lose~~ his job <sup>possibly</sup> ~~apparently~~ owing to some village factions. <sup>that if</sup> ~~Even~~ so it is not possible to help him. We may observe in future <sup>this</sup> ~~if~~ there is any chance for the applicant to apply for a job the circumstances <sup>may</sup> ~~may~~ be kept in mind <sup>by the respondents</sup>.

For the afore-said reasons the OA is dismissed. No costs.

(H. RAJENDRA PRASAD)  
MEMBER (ADMN.)

(M.G. CHAUDHARI)  
VICE CHAIRMAN

Date: 11TH FEBRUARY 1997  
Dictated in the open court

KSM

Deputy Registrar

O.A.774/95

To

1. The Senior Superintendent  
of Post Offices,  
Nizamabad Division, Nizamabad.
2. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
3. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
4. One copy to D.R.(A) CAT.Hyd.
5. One spare copy.

pvm.

25/4/97

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI  
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD  
MEMBER (ADMN)

Dated: 11-2-1997

ORDER / JUDGMENT

M.A./R.A/C.A. No.

in

O.A.No. 774/95

T.A.No. (W.P.)

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

